

person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 514.4(b)(1) if the taxpayer also attaches to such form a letter in duplicate, signed by the owner, trustee, or agent and containing the following:

(a) The name and address of the obligor;

(b) The name and address of the owner from which the excess tax was withheld;

(c) A statement that, at the time when the interest was derived from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of France, or, in the case of a corporation, the owner was a French corporation; and

(d) A statement that the owner at no time during the taxable year in which the interest was derived was engaged in trade or business within the United States through a permanent establishment situated therein.

One such substitute form shall be filed, in duplicate, with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001-F, shall be executed.

(ii) *Disposition of form.* The original and duplicate of substitute Form 1001-F (and letter) shall be forwarded by the withholding agent to the Director, International Operations Division, Internal Revenue Service, Washington, D.C., with the annual return on Form 1042. Substitute Form 1001-F need not be listed on Form 1042.

(3) *Noncoupon interest, royalties, private pensions, and life annuities.* (i) If a taxpayer furnishes to the withholding agent a Form 1001A-F, properly executed as prescribed by § 514.4(b)(4), and United States tax has been withheld at the statutory rate on or after January 1, 1957, from noncoupon interest payments in respect of which the form is filed, the withholding agent should release and pay over to the person from

whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 514.4(b)(4).

(ii) If a taxpayer furnishes to the withholding agent a Form 1001A-F, properly executed as prescribed by § 514.4(b)(4), and United States tax has been withheld at the statutory rate on or after January 1, 1957, from royalties, private pensions, and life annuities in respect of which the form is filed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the total tax so withheld.

(b) *Amounts not to be released.* The provisions of this section do not apply to excess tax withheld at source which has been paid by the withholding agent to the internal revenue officer entitled to receive payment of the tax withheld under chapter 3 of the Internal Revenue Code of 1954.

(c) *Statutory rate.* As used in this section, the term "statutory rate" means the rate prescribed by chapter 3 of the Internal Revenue Code of 1954 and the regulations thereunder, as though the convention had not come into effect.

#### § 514.9 Refund of excess tax withheld.

(a) *Years 1952, 1953, 1954, 1955, 1956.* Where the tax withheld at the source upon dividends and interest paid in any one or more of the calendar years 1952, 1953, 1954, 1955, and 1956 is in excess of the tax due from the taxpayer under the convention, supplemented as set forth above, it will be necessary for the taxpayer to file an income tax return (Form 1040NB France for individuals and Form 1120NB France for corporations) with respect to such taxable year or years. The return shall cover all years for which a refund is claimed. The return must be filed on or before June 13, 1959. One return shall cover all years for which a refund is claimed. The taxpayer's total fixed or determinable, annual or periodical income (other than royalties) from sources within the United States should be reported on the return, and the income for each taxable year should be shown separately. There shall also be shown on such returns the amounts, if any, received in any of such years of capital

gains (other than gains from the sale or exchange of stocks, securities or commodities) from sources within the United States. For this purpose, beginning with the calendar year 1954, certain distributions from employees' trusts, and amounts received incident to disposal of timber or coal or patent rights shall be included in such capital gains. See section 871(a)(1) of the Internal Revenue Code of 1954 for provisions pertaining to individual taxpayers and section 881(a) for provisions pertinent to corporate taxpayers. There shall be included with the return the following statements:

(1) That the taxpayer was a non-resident alien (including a nonresident alien individual, fiduciary, or partnership) resident in France or was a French corporation, during the year or years for which the return is filed;

(2) That the taxpayer had no permanent establishment in the United States during the respective years in which the income was received;

(3) That no penalty for fraud has been imposed by the United States against the taxpayer claimant with respect to income tax for the year or years for which the return is filed.

In addition to the above statements, all information requested on the return must be furnished. Any tax paid in excess of that due from the owner of the income will be refunded by the United States Government as required by law. For the purpose of refund of excess tax withheld resulting from the tax convention, a properly executed return on Form 1040NB France or Form 1120NB France shall constitute a claim for refund or credit for the amount of the overpayment disclosed by such return.

(b) *Date of payment of tax.* The United States tax withheld from dividends and interest derived from sources within the United States by nonresident aliens, or by a foreign corporation not engaged in trade or business in the United States, is deemed to have been paid on March 15 of the calendar year immediately succeeding that in which such income has been so derived. Section 1461, Internal Revenue Code of 1954. Hence, the United States tax withheld from dividends and interest derived by such aliens resident in France and such French corporations

for the years 1952, 1953, 1954, 1955, and 1956 is deemed to have been paid, respectively, on March 15, 1953, March 15, 1954, March 15, 1955, March 15, 1956, and March 15, 1957.

#### § 514.10 Effective date.

The provisions of §§ 514.1 through 517.9 shall be effective with respect to taxable years beginning after December 31, 1956, and before January 1, 1967, or with respect to dividends, interest, and royalties paid before August 11, 1968.

[T.D. 6986, 34 FR 136, Jan. 4, 1969]

TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1966, OR DIVIDENDS, INTEREST, AND ROYALTIES PAID ON OR AFTER AUGUST 11, 1968

SOURCE: Treasury Decision 6986, 34 FR 136, Jan. 4, 1969, unless otherwise noted.

#### § 514.20 Introductory.

(a) *Applicable provisions of convention.* The income tax convention between the United States and France, signed on July 28, 1967 (the instruments of ratification of which were exchanged on July 11, 1968), provides in part as follows, effective for taxable years beginning after December 31, 1966, or with respect to the rate of withholding tax, for dividends, interest, and royalties paid on or after August 11, 1968:

##### ARTICLE 1—TAXES COVERED

(1) The taxes which are the subject of the present Convention are:

(a) In the case of the United States, the Federal income tax, including surtax, imposed by the Internal Revenue Code and

(b) In the case of France:

(i) The income tax on the income of physical persons, the complementary tax, the corporation tax, including any withholding tax, prepayment (precompte) or advance payment with respect to the aforesaid taxes, and

(ii) The tax on Stock Exchange transactions.

(2) The Convention shall also apply to any documentary taxes on sales or transfers of shares or certificates of stock or bonds which are subsequently imposed.

(3) The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

(4) For the purpose of Article 24 (Non-discrimination), this Convention shall also